

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
MCALLEN DIVISION**

UNITED STATES OF AMERICA	§	
	§	
v.	§	CASE NO. 7:08-CV-066
	§	
10.64 ACRES OF LAND, MORE OR LESS,	§	TRACT RGV-RGC-2020
SITUATED IN STARR COUNTY, TEXAS;	§	(Expired Access Easement)
AND UNKNOWN OWNERS, ET AL.,	§	

UNITED STATES OF AMERICA	§	
	§	
v.	§	CASE NO. 7:08-CV-197
	§	
1.40 ACRES OF LAND, MORE OR LESS,	§	TRACT RGV-RGC-2020
SITUATED IN STARR COUNTY, TEXAS;	§	(Fee, excluding mineral)
AND UNKNOWN OWNERS, ET AL.,	§	

**UNITED STATES' RESPONSE TO THE COURT'S ORDER
REQUESTING STATUS UPDATE**

COMES NOW the United States of America (“United States”), and files this response to the District Court’s October 17, 2018 Order to inform the Court on the status of the case:

PROCEDURAL BACKGROUND

A. Civil No. 7:08-cv-066 Proceedings

On February 8, 2008, the United States filed Civil No. 7:08-cv-066, condemning a temporary (180-day) right-of-entry easement—identified as Tract RGV-RGC-2020—for the border fence project. On April 18, 2008, the United States deposited \$100.00 into the Court’s registry as its estimated just compensation for this temporary easement. [Doc. No. 8, in Civil No. 7:08-cv-066]. At the time of filing, the owners of the subject property burdened by the temporary right-of-entry easement were unknown. [Doc. No. 2-1, at 14, in Civil No. 7:08-cv-066].

On October 15, 2012, the United States filed a status report explaining that consolidation of this case (Civil No. 7:08-cv-066) with the subsequent takings case (Civil No. 7:08-cv-197) was appropriate because both cases involved the same land. [Doc. No. 17, in Civil No. 7:08-cv-066].

B. Civil No. 7:08-cv-197 Proceedings

On June 28, 2008, the United States filed Civil No. 7:08-cv-197, condemning a fee simple interest in 1.40 acres, more or less, identified as Tract RGV-RGC-2020. On July 1, 2008, the United States deposited \$4,200.00 into the Court's registry as its estimated just compensation for Tract RGV-RGC-2020.¹ [Doc. No. 5, in Civil No. 7:08-cv-197]. At the time of taking, the United States was unable to identify or locate any known owners. [Doc. No. 2-2, at 14, in Civil No. 7:08-cv-197].

On October 15, 2012, the United States filed a status report explaining the need to consolidate this case (Civil No. 7:08-cv-197) with Civil No. 7:08-cv-066 because the cases involve the same tracts of land. [Doc. No. 13, in Civil No. 7:08-cv-197]. The United States also explained that it had not yet been able to locate the owner of the subject property, including via service by publication. [*Id.*]. However, the United States stated that once the finalized title commitment is completed, there may be additional information regarding the identity of the landowners. [*Id.*].

C. Consolidation and Subsequent Proceedings

On October 30, 2012, the United States filed its motion to consolidate Civil No. 7:08-cv-066 and Civil No. 7:08-cv-197 because these cases are related border fence actions involving

¹ See 40 U.S.C. § 3114(b) ("On filing the declaration of taking and depositing in the court, to the use of the persons entitled to the compensation, the amount of the estimated compensation stated in the declaration—(1) title to the estate or interest specified in the declaration vests in the Government; (2) the land is condemned and taken for the use of the Government; and (3) the right to just compensation for the land vests in the persons entitled to the compensation.").

common tracts and common ownership. [Doc. No. 18].² On October 31, 2012, this Court granted the motion to consolidate the two cases under consolidated Civil No. 7:08-cv-066. [Doc. No. 19].

On September 4, 2013, the United States filed its supplemental status report explaining that it could not yet predict when the Amended Declaration of Taking would be filed, which would help clarify the description of the property taken and identify any possible interested parties, due to delays in obtaining the final surveys and title work for Tract RGV-GRC-2020. [Doc. No. 21].

ANTICIPATED NEXT STEPS

The United States plans to take the following steps to resolve this case:

(1) File an Amended Declaration of Taking (“ADT”) and Amended Complaint in Condemnation (“Amended Complaint”) in order to (a) clarify the description and plat of the land acquired based on finalized surveys and title examination results; (b) clarify that the land taken did not include water distribution and drainage systems; and (c) add as defendants any new parties identified as having an interest.

(2) Resolve all outstanding issues with the identified landowners, including just compensation, once title ownership has been confirmed via the ADT.

(3) The United States advises the Court that, in FY 2019, it expects to acquire additional property from this landowner for the border fence project.

² All references to documents filed after October 31, 2012 refer to Consolidated Civil No. 7:08-cv-066.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I certify that on December 7, 2018, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, and that our office will send a copy of this document on December 7 and/or 10, 2018 via regular mail to all parties who have made an appearance and/or for whom the United States has contact information.

s/ Christopher D. Pineda
CHRISTOPHER D. PINEDA
Assistant United States Attorney